

## Calendar No. 208

105TH CONGRESS }  
1st Session }

SENATE

{ REPORT  
105-106

### CONVEYANCE OF CERTAIN PUBLIC LANDS IN ALASKA

OCTOBER 9, 1997.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

### REPORT

together with

### MINORITY VIEWS

[To accompany S. 660]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 660) to provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SEC. 1. FINDINGS AND PURPOSES

(a) FINDINGS.—The Congress finds that—

(1) the University of Alaska is the successor to and the beneficiary of all Federal grants and conveyances to or for the Alaska Agricultural College and School of Mines;

(2) under the Acts of March 4, 1915, 38 Stat. 1214, and January 21, 1929, 45 Stat. 1091, the United States granted to the Territory of Alaska certain federal land for the University of Alaska;

(3) the Territory was unable to receive most of the land intended to be conveyed by the Act of March 4, 1915, before repeal of that Act by Sec. 6(k) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339);

(4) only one other state land grant college in the United States has obtained a smaller land grant from the federal government than the University of Alaska has received, and all land grant colleges in the western states of the United States have obtained substantially larger land grants than the University of Alaska;

(5) an academically strong and financially secure state university system is a cornerstone to the long-term development of a stable population and to a healthy, diverse economy and is in the national interest;

(6) the national interest is served by transferring certain federal lands to the University of Alaska which will be able to use and develop the resources of such lands and by returning certain lands held by the University of Alaska located within certain federal conservation system units to federal ownership;

(7) the University of Alaska holds valid legal title to and is responsible for management of lands transferred by the United States to the Territory and State of Alaska for the University and that an exchange of lands is consistent with and in furtherance of the purposes and terms of, and thus not in violation of, the Federal grant of such lands.

(b) PURPOSES.—The purposes of this act are—

(1) to fulfill the original commitment of Congress to establish the University of Alaska as a land grant university with holdings sufficient to facilitate operation and maintenance of a university system for the inhabitants of the State of Alaska; and

(2) to acquire from University of Alaska lands it holds within federal Parks, Wildlife Refuges, and Wilderness areas.

#### SEC. 2. PRIMARY FEDERAL GRANT

(a) Notwithstanding any other provision of law, but subject to valid existing rights and the procedures set forth herein, the University is granted and entitled to take up to 250,000 acres of federal lands (or reserved interests in lands) in or adjacent to Alaska as a federal grant. The University may identify and select the specific lands it intends to take pursuant to this grant, and the Secretary of the Interior (“Secretary”) shall promptly convey to the University the lands selected, in accordance with the provisions of this Act.

(b)(1) Within 48 months of enactment of this Act, the University of Alaska may submit to the Secretary a list of properties the University has tentatively selected to receive under the conditions of this grant. Such list may be submitted in whole or in part during this period and the University may make interim tentative selections that it may relinquish or change within the 48 month period. The University may submit tentative selections that exceed the amount of the grant except that such selections shall not exceed 275,000 acres at any one time.

(2) All selections shall be in reasonably compact units: *Provided*, That the University may select small tracts of federal land within federal reservations consistent with the limitations in subsection (c) below.

(3) The University may submit tentative selections of federal lands validly selected but not conveyed to the State of Alaska or the corporations organized pursuant to the Alaska Native Claims Settlement Act: *Provided*, That such lands may not be approved or conveyed to the University unless the State of Alaska and or the corporation has relinquished its prior selection.

(4) The University shall make no selections within Conservation System Units as defined in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101) or lands designated as LUD II by section 201 of the Tongass Timber Reform Act of 1990.

(5) Within forty-five (45) days of receipt of a University tentative selection, the Secretary shall publish notice of said selection in the *Federal Register*. Such notice shall identify lands included in the tentative selection and provide for a period for public comment on the tentative selection not to exceed sixty (60) days.

(6) Within six months of the receipt of a University tentative selection, the Secretary shall notify the University of his acceptance or objection to each tentative selection, including the reasons for any objection. Failure to object within six months shall constitute approval by the Secretary. Any public comments submitted in response to a public notice issued pursuant to paragraph (5) above may be considered by the Secretary: *Provided*, That the Secretary may object to tentative selections of the University if and only if he demonstrates that a conveyance of such to the University—

(A) will have a significant adverse impact on the purposes for which a Conservation System Unit was established; or

(B) will have a significant adverse impact on fulfillment of the Alaska Statehood Act of the Alaska Native Claims Settlement Act. (43 U.S.C. 1601)

(7) The Secretary’s acceptance of, or objection to, any tentative selections submitted by the University of Alaska pursuant to Section 2 of this Act or the conveyance of any such selections by tentative approval, patent or other instrument are not major federal actions within the means of section 102(2)(c) of P.L. 91–190.

(8) The Secretary shall publish notice of any decision to accept or object to a tentative selection in the *Federal Register*.

(c) The Secretary shall not approve or convey, under this grant,

(1) any federal lands which, at the time of enactment of this Act, are included in a Conservation System Unit, or are designated as LUD II by section 201 of the Tongass Timber Reform Act of 1990;

(2) any federal lands validly selected or top filed pursuant to § 906(e) of Public Law No. 96-487 but not conveyed to the State of Alaska or the corporations, pursuant to the Alaska Native Claims Settlement Act; or

(3) any federal lands withdrawn and actually used in connection with the administrative of any federal installations and military reservations unless the head of the land holding or occupying agency or entity agrees.

(d) If, following the Secretary's review of tentative selections by the University, the amount of acreage approved by the Secretary for conveyance is less than the full primary grant, the University may select addition lands to satisfy the primary grant.

(e) Upon the University's tentative selection of land—

(1) Such land shall be segregated and unavailable of selection by and conveyance to the State of Alaska or any corporation organized pursuant to the Alaska Native Claims Settlement Act and shall not be otherwise encumbered or disposed of by the United States pending completion of the selection process.

(2) The University shall possess the non-exclusive right to enter onto such lands for the purpose of—

(A) assessing the oil, gas, mineral and other resource potential therein. The University, and its delegates or agents, shall be permitted to engage in assessment techniques including but not limited to core drilling to assess the metalliferous or other values, and surface geological exploration and seismic exploration for oil and gas: *Provided*, That this paragraph shall not be construed as including or allowing exploratory drilling of oil and gas wells; and

(B) exercising due diligence regarding the making of final selection.

(f) Within one year of the Secretary's approval of a tentative selection, the University may make therefrom a final selection pursuant to this Act. Within six months of such final selection by the University, the Secretary shall issue a tentative approval of such final selection. Such tentative approval shall be deemed to transfer to the University all right, title, and interest of the United States in and to the described selection. Any lakes, rivers and streams contained within such selections shall be meandered and lands submerged thereunder conveyed in accordance with 43 U.S.C. § 1631, as amended. Upon completion of a survey of lands included within such tentative approval, the Secretary shall promptly issue a patent to such lands. Pending issuance of a patent, the University shall have rights and authorities over tentatively approved lands consistent with those under the Alaska Statehood Act and the Alaska Native Claims Settlement Act, including the right to transfer, assign, exchange, grant, deed, lease or otherwise convey any or all present or future interest in the lands granted pursuant to this Act.

(g) The Secretary of Agriculture, as well as the heads of other federal agencies, shall take such actions as may be necessary to facilitate and expedite the implementation of this Act by the Secretary of the Interior.

### SEC. 3. RELINQUISHMENT OF CERTAIN UNIVERSITY OF ALASKA HOLDINGS

(a) As a condition to receiving the primary land grant provided by Section 2 of this Act, University of Alaska shall convey to the Secretary those lands listed in "The University of Alaska's Inholding Reconveyance Documents" and dated April 24, 1997.

(b) The University shall begin conveyance of the lands listed in (a) above upon taking title to lands it has selected pursuant to section 2 of this Act and shall convey to the Secretary a percentage amount of land proportional to that which it has received, but in no event shall it be required to convey any lands other than those listed in (a) above to the Secretary. The Secretary shall accept quitclaim deeds from the University for those lands.

### SEC. 4. ALIENATION OF LANDS

Notwithstanding any other provision of law, the University of Alaska may transfer, assign, exchange, grant, deed, lease or otherwise convey any or all present or future interests in the lands granted pursuant to this Act.

### SEC. 5. JUDICIAL REVIEW

The University of Alaska has the right to bring action for, including but not limited to, relief in the nature of mandamus, against the Secretary for violation of this

Act or for review of an agency decision under this Act. Such an action can only be brought in the United States District Court for the District of Alaska and within two (2) years of the alleged violation or the final decision-making. For all other entities or persons, decisions of the Secretary shall be final and conclusive.

#### SEC. 6. STATE MATCHING GRANT

(a) Notwithstanding any other provision of law, but subject to valid existing rights and the procedures set forth in this Act, the University is granted and shall be entitled to take, in addition to the primary grant provided for in Section 2 herein, up to another 250,000 acres in federal lands (or reserved interests in lands) in or adjacent to Alaska: *Provided*, That any additional acres are granted, as specified below, on a matching acre-for-acre basis to the extent that the State of Alaska shall first grant to the University State-owned land in Alaska.

(b) The University may select and the Secretary shall convey lands which the University is entitled to receive pursuant to this State Matching Grant Provision in minimum increments of 25,000 acres up to the maximum of 250,000 acres.

#### PURPOSE OF THE MEASURE

S. 660 as ordered reported, would provide Alaska's Federal land grant college, the University of Alaska, with a Federal land grant in support of its educational endeavors. S. 660 would also transfer to the Federal Government 29 individual inholdings in within conservation system units in Alaska.

#### BACKGROUND AND NEED

One of the oldest and most respected ways of financing America's educational system has been through the land grant system. Established in 1785, this practice gives land to schools and universities for use in supporting educational endeavors. In 1862, Congress passed the Morrill Act which created land grant colleges and universities as a way to underwrite the cost of higher education to more Americans. These colleges and universities received land from the Federal Government for facility location and, more importantly, as a way to provide sustaining revenues.

The University of Alaska received the smallest amount of land of any State, with the exception of Delaware, that has a land grant college. Even the land grant college in Rhode Island received more land from the Federal Government than has the University of Alaska.

Previous efforts in Congress were made to fix this problem. These efforts date back to 1915, less than 50 years after the passage of the Morrill Act, when Alaska's Delegate James Wickersham shepherded a measure through Congress that set aside potentially more than a quarter of a million acres in the Tanana Valley outside of Fairbanks, for the support of an agricultural college and school of mines. Following the practice established in the lower 48 for other land grant colleges, Wickersham's bill set aside every Section 33 of the unsurveyed Tanana Valley for the Alaska Agricultural College and School of Mines.

Before land could be transferred to the Alaska Agricultural College and School of Mines (renamed the University of Alaska in 1935) under the 1915 Act, it had to be surveyed. The sections reserved for education could not be transferred to the College until they had been delineated. According to records of the time, it was unlikely, given the incredibly slow speed of surveying, that the land could be completely surveyed before the 21st century. Surveying was and is an extraordinarily slow process in Alaska's remote

and unpopulated terrain. In all, only a small amount of section 33's—totaling just under 12,000 acres—were ever transferred to the University. Of this, 2,250 were used for the original campus and the remainder was left to support educational opportunities.

Recognizing the difficulties of surveying in Alaska, subsequent legislation was passed in 1929 that simply granted land for the benefit of the University. This grant totaled approximately 100,000 acres and to this day comprises the bulk of the University's roughly 112,000 acres of Federal land.

During the 74th–78th (1936–43) Congress, Alaska Delegate Anthony J. Dimond introduced five identical bills to extend the 1915 grant to all section 33's throughout the State, not just Tanana Valley for approximately a 10 million acre grant to the University. In 1943, Bob Bartlett introduced the first of his statehood bills which reserved two sections of every township (20 million acres) for support of public schools and one section of every township (10 million acres) for the University. This was the formula for all statehood bills up to 1949. Realizing that schools would never see any land until it was surveyed—decades into the future—in 1950, Bartlett changed his approach from “inplace grants” to “quantity grants” which would allow the University to select the lands they wanted. He believed this would give the new state greater flexibility. At that point, the University's land became part of an approximate 3.25 million acre “internal improvement grant” that was rolled into the state's 104 million acre grant. With the passage of Statehood in 1958 all the University's land (approximately one million+acres now) were consolidated into the State's general grant leaving disposition of all State lands, including the University, at the discretion of the legislature. The Statehood Act also repealed the 1915 Act although it did preserve the previously granted acres. This set the stage for future debates in Congress and in the State of Alaska for disagreements about whether the State or the Federal Government should be responsible for providing the University with the balance of land it never received under 1915 legislation.

S. 660 would grant the University 250,000 acres of Federal land. In order to receive this land, the University must relinquish 11,852 acres of valuable inholdings in Alaska. These inholdings include lands in the Alaska Peninsula and Maritime National Wildlife Refuge, the Kenai Fjords National Park, Wrangell St. Elias National Park and Preserve, and Denali Park and Preserve. The University would be eligible to receive an additional 250,000 acres of Federal land on a matching basis with the State for a total of 500,000 additional acres.

#### LEGISLATIVE HISTORY

S. 660 was introduced by Senator Murkowski on April 28, 1997. A hearing was held before the Full Committee on Energy and Natural Resources on September 11, 1997. At the business meeting on September 24, 1997, the Committee on Energy and Natural Resources ordered S. 660, as amended, favorably reported.

#### COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 24, 1997, by a majority vote of a quorum

present, recommends that the Senate pass S. 660, if amended as described herein.

The rollcall vote on reporting the measure was 12 yeas, 8 nays, as follows:

YEAS	NAYS
Murkowski	Bumpers
Domenici	Ford
Nickles <sup>1</sup>	Bingaman <sup>1</sup>
Craig	Dorgan
Campbell	Graham <sup>1</sup>
Thomas <sup>1</sup>	Wyden <sup>1</sup>
Kyl	Johnson
Grams	Landrieu
Smith	
Gorton	
Burns <sup>1</sup>	
Akaka	

<sup>1</sup> Voted by proxy.

#### COMMITTEE AMENDMENTS

During the consideration of S. 660, the Committee adopted an amendment in the nature of a substitute offered by Senator Murkowski. The amendment made two changes to the original legislation. First it directs the University to relinquish the inholdings identified in the bill proportionately with the land it receives under the primary land grant from the Federal Government. Second, the amendment prohibits the University from selecting any lands that are contained in LUD II areas as defined by Section 201 of the Tongass Timber Reform Act of 1990 (Public Law 101-626).

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1*

Contains congressional findings and sets forth the purposes of the Act.

##### *Section 2*

Section 2 provides a new land grant for the University of Alaska. Subsection (a) grants the University of Alaska selection rights to 250,000 acres of public lands in or adjacent to Alaska and directs the Secretary of the Interior to promptly convey such lands. Subsection (b) in paragraph (1) provides that within 48 months of enactment the University may submit lists of lands tentatively selected under the Act. Such tentative selections may be relinquished or changed at any time within the 48 month period. However, at no time may the University's amount of tentative selections exceed 275,000 acres. Paragraph (2) of this section requires that selections be in reasonably compact units, provided that small tracts within Federal reservations may be selected consistent with the provision of subsection (c). Paragraph (3) provides that the University may select lands which have been selected by, but not conveyed to, the State of Alaska Native corporations. However, such lands may be conveyed to the University only if the State or Native corporation

first relinquishes its selection. Paragraph (4) prohibits the University from selecting lands within Conservation System Units (SCU) as defined in the Alaska National Interest Lands Conservation Act (ANILCA) or lands designated as LUD II by the Tongass Timber Reform Act (TTRA). Paragraph (5) directs the Secretary to publish in the Federal Register notice of University selections within 45 days thereof. Such notice must provide for a public comment period not to exceed 60 days. Paragraph (6) provides that the Secretary must notify the University of a decision to accept or object a tentative selection within six months and that failure to do so constitutes approval. Public comments submitted pursuant to paragraph (5) may be considered, but the Secretary may object to tentative selections only if he demonstrates that such a conveyance would either have a significant adverse impact on (A) the purposes of a CSU or (B) on the fulfillment of the Alaska Statehood Act or the Alaska Native Claims Settlement Act (ANCSA). Paragraph (7) provides that the Secretary's acceptance of, objection to, or conveyance of tentative selections are not major Federal actions under the National Environmental Policy Act. Paragraph (8) requires publication in the Federal Register of the acceptance or rejection of any tentative sections. In subsection (c), the Secretary is prescribed from approving or conveying any Federal lands which (1) are part of a CSU or designated as LUD II under TTRA; (2) validly selected or top filed, but not yet conveyed, pursuant to Section 906(e) of ANILCA; or (3) withdrawn or actually used in connection with any Federal installation or military reservation, unless agreed to by the head of the relevant federal agency or entity. Under subsection (d), if the amount of acreage approved for conveyance by the Secretary is less than the full grant provided for in section 7, the University may select additional lands. Subsection (e), in paragraph (1), directs that any land tentatively selected by the University is to be segregated, will be unavailable for selection by the State of Alaska or Alaska Native corporations and may not be otherwise encumbered or disposed of by the United States during the selection process. Paragraph (2) gives the University the non-exclusive right to enter onto tentatively selected lands for the purpose of (A) assessing oil, gas, mineral and other resource potential through various assessment techniques, including core drilling; and (B) the exercise of due diligence. Subsection (f) directs that within one year of the Secretary's approval of a tentative selection, the University may make its final selection. Within six months of such final selection, the Secretary must issue a tentative approval which shall be deemed to transfer all right, title and interest in the selection to the University. Lands are to be meandered and submerged lands conveyed in accordance with the provisions of 43 U.S.C. § 1631. The Secretary shall issue a patent to such lands once they have been surveyed. Pending such issuance, the University shall have all rights and authorities over tentatively approved lands consistent with the Alaska Statehood Act and the ANCSA, including the right to transfer, assign, exchange, grant, lease or otherwise convey. Subsection (g) directs the Secretary of Agriculture and other federal officials to take any actions necessary to facilitate and expedite implementation of this Act.

### *Section 3*

Section 3, in subsection (a), provides that, as a condition to receiving the primary Federal land grant under section 2, the University must relinquish and convey certain lands to the United States. These lands, which are all inholdings in National Park and Wildlife Refuge System units, are identified in a document titled "The University of Alaska's Inholding Reconveyance Document," dated April 24, 1997. Under subsection (b), the University must convey those inholdings on a basis proportional to its receipt of title to lands under Section 2. The Secretary must accept quitclaim deeds to such lands and the University may not be required to convey any other lands.

### *Section 4*

Section 4 provides that, notwithstanding any other provision of law, the University will have the absolute right to transfer, assign, exchange, grant, deed, lease or otherwise convey any interests in land it receives under the Act.

### *Section 5*

Section 5 provides that the University has a right of action against the Secretary for violations of this Act or for review of an Agency decision hereunder. Any such action must be brought in the U.S. District Court for the District of Alaska within two years. The Secretary's decisions shall be final as to all others.

### *Section 6*

Section 6, in subsection (a), provides the University with an entitlement up to an additional 250,000 acres of federal lands on an acre-for-acre matching basis with the State of Alaska. This additional entitlement is subject to valid existing rights and the procedures in this Act. Subsection (b) provides that this additional federal entitlement is to be conveyed in minimum increments of 25,000 acres.

## COST AND BUDGETARY CONSIDERATIONS

On September 24, 1997, the Committee on Energy and Natural Resources requested cost estimates to be prepared by the Congressional Budget Office for S. 660. These reports had not been received at the time the report on S. 660 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

## REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 660. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.



Little, if any, additional paperwork would result from the enactment of S. 660, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

On September 25, 1997 the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior, the Department of Agriculture, and the Office of Management and Budget setting forth Executive agency recommendations on S. 660. Reports from the OMB had not been received at the time the report on S. 660 was filed. When this report becomes available, the Chairman will request that it be printed in the Congressional Record for the advice of the Senate. A joint letter from the Departments of Agriculture and Interior and the testimony provided by the Department of the Interior at the Committee hearing follows:

THE SECRETARY OF THE INTERIOR,  
*Washington, September 25, 1997.*

Hon. FRANK MURKOWSKI,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This is to express the Department of the Interior's views on S. 660, on which Tom Fry of the Bureau of Land Management testified on September 11, 1997. S. 660 would direct the Secretary to convey a minimum of 250,000 acres of Federal lands to the University of Alaska. S. 660 further directs the Secretary to convey additional acreage, up to 250,000 acres, if the State were to convey an equal amount. Pursuant to the terms of the bill, the University would be able to choose some of the most valuable 500,000 acres of Federal land in the State. Unlike nearly all other statutes disposing of public land, there is no requirement in S. 660 that lands be vacant, unreserved, or unappropriated. This bill would allow the University to select lands from the National Petroleum Reserve-Alaska, the Tongass National Forest, or other areas of great value to the citizens of the United States.

Because the United States has fully discharged its responsibilities to the State of Alaska with regard to the university lands entitlement and the impact on sensitive Federal lands could be profound, the Department of the Interior and the Department of Agriculture strongly oppose this bill and will recommend a veto if it passes the Congress.

#### *Legislation to compensate Alaska for the original school land grant*

The underlying premise of this bill is faulty. The bill presumes that the University of Alaska never received the quantity of land that Congress intended to bestow upon it. It implies that the Federal government failed to provide an adequate land base, and as a result the University has failed to achieve its full potential.

Contrary to the claims asserted in S. 660, Congress has already enacted legislation to fully compensate Alaska for original university land grants.

The Act of March 4, 1915, set aside each surveyed section 33 in the Tanana Valley for the support of a Territorial agricultural college. Twenty-six of these sections were surveyed and 11,850.60

acres were transferred to the Territory for the benefit of an agricultural college and school of mines.

On January 21, 1929, while survey and transfer under the Act of March 4, 1915, was ongoing, Congress provided an additional 100,000-acre grant to the Territory on behalf of the University. The 1929 Act did not restrict the land grants to sections in place, but instead allowed Alaska to select vacant, unappropriated, and unreserved land anywhere within the Territory's boundaries. This gave the Territory the opportunity to choose the highest value land from all lands meeting the selection criteria. To date, 99,417 acres of this grant have been transferred to the State.

The Act of March 4, 1915 was repealed by the Alaska Statehood Act in 1959, although the sections that had already been surveyed continued to be reserved for future conveyance to the State. There was a lingering dispute in 1980 between Alaska and the Federal government concerning which land grant sections vested in the State at the time of Statehood and which sections were revoked in the Alaska Statehood Act. To resolve this, Congress passed section 906(b) of the Alaska National Interest Lands Conservation Act, granting the State 75,000 acres of land and clearly stating that any and all Federal obligations under the Act of March 4, 1915, had been extinguished. Section 906(b) states that:

In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 . . . as confirmed and transferred in section 6(k) of the Alaska Statehood Act, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands. In exercising the selection rights granted herein, the State shall be deemed to have relinquished all claims to any right, title, or interest to any school lands which failed to vest under the above statutes at the time Alaska became a State (January 3, 1959), including lands unsurveyed on that date or surveyed lands which were within Federal reservations or withdrawals on that date.

#### *The Alaska Statehood Act*

In the Alaska Statehood Act, Congress rejected the previous methods used to provide for state institutions (*i.e.*, making specific sections available or setting aside specific acreage for categories of state institutions). Congress opted instead to give the new state a general purpose land grant of 102,550,000 acres. This provided Alaska with the needed flexibility to chart its own course. Subsequent decisions made by the State concerning the funding of its university system were to be freely made in Alaska, by Alaskans.

Alaska was never *short-changed* in the amount of land it received to support its university system. The original land grant formula to states in support of higher education is known as the Morrill Act. The amount of land awarded each state under the Morrill Act was based on the state's population, not its size. Had Alaska been a state in 1862 when the original Morrill Act passed, it would have received a total of 90,000 acres (30,000 acres each for one Representative and two Senators). Although Alaska was not a state

and did not fall under the purview of the Morrill Act, it actually received more land through the Act of March 4, 1915, and the Act of January 21, 1929, described above.

Section 6(l) of the Alaska Statehood Act explicitly states that Alaska will not be entitled to receive any additional lands under the Morrill Act, making it clear that Congress did not overlook the university in the Statehood Act, but concluded that it had adequately provided for the needs of all State institutions through the general purpose grant of 102.5 million acres in Section 6(b).

The responsibility for providing the remaining land endowment for the Alaska university system clearly passed to the State of Alaska with passage of the Alaska Statehood Act. Congress made it clear that in giving the State a land entitlement of 102.5 million acres, it was extinguishing and fully satisfying previous university land entitlements. In other words, Alaska was given a block land grant with a proviso that the grant was “in lieu” of previous and future grants for internal improvement.

The specific Alaska Statehood bills passed by the houses of Congress addressed the “in lieu” issue. Those bills were H.R. 7999 and S. 49. H.R. 7999 read as follows:

The grants provided for in this Act *shall be in lieu of the grant of land* (emphasis added) for purposes of internal improvements made to new States by section 8 of the Act of September 4, 1841, (5 Stat. 455), and sections 2378 and 2379 of the Revised Statutes (43 U.S.C. sec. 857), and in lieu of the swampland grant made by the Act of September 28, 1850, (9 Stat. 520), and section 2479 of the Revised Statutes (43 U.S.C. sec. 982), and in lieu of the grant of thirty thousand acres for each Senator and Representative in Congress made by the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C., secs. 301–308 [The Morrill Act]), which grants are hereby declared not to extend to the State of Alaska.

S. 49 provided for a general grant of 102,550,000 acres and an “in lieu” subsection which was identical to H.R. 7999 above.

Due to differences in the two bills, conferees met and agreed upon H.R. 7999 with certain concessions to S. 49, including a quantity grant of 102,500,000 acres. Both houses passed the bill as amended by the conferees. The final version, as reflected by section 6(b) of the Alaska Statehood Act, provided a quantity land grant of 102,550,000 acres with only a very few internal improvement grants, namely: 6(a) for community expansion; 6(c) and 6(d) for government buildings in Juneau; and 6(e) for improvements used in fish and wildlife conservation and protection.

Congress intended the larger quantity land grant to expunge any federal responsibility for any specialized internal improvements grants such as to the University of Alaska. The tenor of both the House and Senate versions of the statehood bills was that the State of Alaska would be responsible for deciding for itself which internal improvements to undertake, and how generously or penuriously to provide for those internal improvements.

S. 660 must be rejected because it is entirely inconsistent with the legislation and legislative histories discussed in this testimony.

*Cost to the American taxpayers under this legislation*

As previously stated, S. 660 allows the University to select lands of tremendous value to the American taxpayers. The proposed legislation provides no exceptions for the high value lands held by the American taxpayers, such as the Tongass National Forest, the pipeline corridor, the National Petroleum Reserve-Alaska, and offshore interests. Similarly, there is no protection for areas with unique values like the Steese National Conservation Area or the White Mountains National Recreation Area.

Depending upon the tracts selected the costs of the proposed legislation in terms of future lost revenue to the Federal treasury could be significant. Onshore and offshore leasable minerals could be selected. It is also likely that the University would pursue multiple tracts of high value timber from the Tongass National Forest, the United States' premier temperate rain forest located in southeastern Alaska. The effect could be to fatally undermine the Tongass National Forest Land Use Management Plan and require a new plan.

In addition to lost revenue and planning costs, the survey, adjudication and management costs of the proposal could be significant.

*Conclusion*

At Statehood, the Congress provided Alaska with 102.5 million acres of land, more than four times the amount of Federal land provided to any other state, in part to provide land for higher education. Subsequent decisions made by the State concerning the allocation of lands for the university system were freely made in Alaska, by Alaskans. The United States has fully discharged its responsibilities. It is clearly not appropriate for the United States to provide additional public lands to the State of Alaska for an entitlement that has been fully satisfied.

The Office of Management and Budget has advised us that it has no objection to the submission of this report from the standpoint of the President's program.

Sincerely,

BRUCE BABBITT.  
DAN GLICKMAN.

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STATEMENT OF TOM FRY, DEPUTY DIRECTOR, BUREAU OF  
LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, thank you for the opportunity to testify on S. 660, which would direct the Secretary to convey a minimum of 250,000 acres of Federal lands to the University of Alaska. S. 660 further directs the Secretary to convey additional acreage, up to 250,000 acres, if the State were to convey an equal amount. Pursuant to the term of the bill, the University would be able to choose some of the most valuable 500,000 acres of Federal land in the State. Unlike nearly all other statutes disposing of public land, there is no requirement in S. 660 that lands be vacant, unreserved, or unappropriated. This bill would allow the University to select lands

from the National Petroleum Reserve-Alaska, the Tongass National Forest, or other areas of great value to the citizens of the United States.

Because the United States has fully discharged its responsibilities to the State of Alaska with regard to the university lands entitlement and the impact on sensitive Federal lands could be profound, the Secretary of the Department of the Interior and the Secretary of the Department of Agriculture strongly oppose this bill and will recommend a veto if it passes the Congress.

*Legislation to compensate Alaska for the original school land grant*

The underlying premise of this bill is faulty. The bill presumes that the University of Alaska never received the quantity of land that Congress intended to bestow upon it. It implies that the Federal government failed to provide an adequate land base, and as a result the University has failed to achieve its full potential.

Contrary to the claims asserted in S. 660, Congress has already enacted legislation to fully compensate Alaska for original university land grants.

The Act of March 4, 1915, set aside each surveyed section 33 in the Tanana Valley for the support of a Territorial agricultural college. Twenty-six of these sections were surveyed and 11,850.60 acres were transferred to the Territory for the benefit of an agricultural college and school of mines.

On January 21, 1929, while survey and transfer under the Act of March 4, 1915, was ongoing, Congress provided an additional 100,000-acre grant to the Territory on behalf of the University. The 1929 Act did not restrict the land grants to sections in place, but instead allowed Alaska to select vacant, unappropriated, and unreserved land anywhere within the Territory's boundaries. This gave the Territory the opportunity to choose the highest value land from all lands meeting the selection criteria. To date, 99,417 acres of this grant have been transferred to the State.

The Act of March 4, 1915 was repealed by the Alaska Statehood Act in 1959, although the sections that had already been surveyed continued to be reserved for future conveyance to the State. There was a lingering dispute in 1980 between Alaska and the Federal government concerning which land grant sections vested in the State at the time of Statehood and which sections were revoked in the Alaska Statehood Act. To resolve this, Congress passed section 906(b) of the Alaska National Interest Lands Conservation Act, granting the State 75,000 acres of land and clearly stating that any and all Federal obligations under the Act of March 4, 1915, had been extinguished. Section 906(b) states that:

In full and final settlement of any and all claims by the State of Alaska arising under the

Act of March 4, 1915 . . . as confirmed and transferred in section 6(k) of the Alaska Statehood Act, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands. In exercising the selection rights granted herein, the State shall be deemed to have relinquished all claims to any right, title, or interest to any school lands which failed to vest under the above statutes at the time Alaska became a State (January 3, 1959), including lands unsurveyed on that date or surveyed lands which were within Federal Reservations or withdrawals on that date.

#### *The Alaska Statehood Act*

In the Alaska Statehood Act, Congress rejected the previous methods used to provide for state institutions (*i.e.*, making specific sections available or setting aside specific acreage for categories of state institutions). Congress opted instead to give the new state a general purpose land grant of 102,550,000 acres. This provided Alaska with the needed flexibility to chart its own course. Subsequent decisions made by the State concerning the funding of its university system were to be freely made in Alaska, by Alaskans.

Alaska was never *short-changed* in the amount of land it received to support its university system. The original land grant formula to states in support of higher education is known as the Morrill Act. The amount of land awarded each state under the Morrill Act was based on the state's population, not its size. Had Alaska been a state in 1862 when the original Morrill Act passed, it would have received a total of 90,000 acres (30,000 acres each for one Representative and two Senators). Although Alaska was not a state and did not fall under the purview of the Morrill Act, it actually received more land through the Act of March 4, 1915, and the Act of January 21, 1929, described above.

Section 6(l) of the Alaska Statehood Act explicitly states that Alaska will not be entitled to receive any additional lands under the Morrill Act, making it clear that Congress did not overlook the university in the Statehood Act, but concluded that it had adequately provided for the needs of all State institutions through the general purpose grant of 102.5 million acres in Section 6(b).

The responsibility for providing the remaining land endowment for the Alaska university system clearly passed to the State of Alaska with passage of the Alaska Statehood Act. Congress made it clear that in giving the State a land entitlement of 102.5 million acres, it was extinguishing and fully satisfying previous university land entitlements. In other words, Alaska was given a block land grant with a proviso that the grant was "in lieu" of previous and future grants for internal improvement.

The specific Alaska Statehood bills passed by the houses of Congress addressed the “in lieu” issue. Those bills were H.R. 7999 and S. 49. H.R. 7999 read as follows:

The grants provided for in this Act *shall be in lieu of the grant of land* (emphasis added) for purposes of internal improvements made to new States by section 8 of the Act of September 4, 1841, (5 Stat. 455), and sections 2378 and 2379 of the Revised Statutes (43 U.S.C. sec. 857), and in lieu of the swampland grant made by the Act of September 28, 1850, (9 Stat. 520), and section 2479 of the Revised Statutes (43 U.S.C. sec. 982), and in lieu of the grant of thirty thousand acres for each Senator and Representative in Congress made by the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C., secs. 301–308 [The Morrill Act]), which grants are hereby declared not to extend to the State of Alaska.

S. 49 provided for a general grant of 102,550,000 acres and an “in lieu” subsection which was identical to H.R. 7999 above.

Due to differences in the two bills, conferees met and agreed upon H.R. 7999 with certain concessions to S. 49, including a quantity grant of 102,500,000 acres. Both houses passed the bill as amended by the conferees. The final version, as reflected by section 6(b) of the Alaska Statehood Act, provided a quantity land grant of 102,550,000 acres with only a very few internal improvement grants, namely: 6(a) for community expansion; 6(c) and 6(d) for government buildings in Juneau; and 6(e) for improvements used in fish and wildlife conservation and protection.

Congress intended the larger quantity land grant to expunge any federal responsibility for any specialized internal improvements grants such as to the University of Alaska. The tenor of both the House and Senate versions of the statehood bills was that the State of Alaska would be responsible for deciding for itself which internal improvements to undertake, and how generously or penuriously to provide for those internal improvements.

S. 660 must be rejected because it is entirely inconsistent with the legislation and legislative histories discussed in this testimony.

#### *Costs to the American taxpayers under this legislation*

As previously stated, S. 660 allows the University to select lands of tremendous value to the American taxpayers. The proposed legislation provides no exceptions for the high value lands held by the American taxpayers, such as the Tongass National Forest, the pipeline corridor, the National Petroleum Reserve-Alaska, and offshore interests. Similarly, there is no protection for areas with unique val-

ues like the Steese National Conservation Area or the White Mountains National Recreation Area.

Depending upon the tracts selected, the costs of the proposed legislation in terms of future lost revenue to the Federal treasury could be significant. Onshore and offshore leasable minerals could be selected. It is also likely that the University would pursue multiple tracts of high value timber from the Tongass National Forest, the United States' premier temperate rain forest located in southeastern Alaska. The effect could be to fatally undermine the Tongass National Forest Land Use Management Plan and require a new plan.

In addition to lost revenue and planning costs, the survey, adjudication and management costs of the proposal could be significant.

#### *Conclusion*

At Statehood, the Congress provided Alaska with 102.5 million acres of land, more than four times the amount of Federal land provided to any other state, in part to provide land for higher education. Subsequent decisions made by the State concerning the allocation of lands for the university system were freely made in Alaska, by Alaskans. The United States has fully discharged its responsibilities. It is clearly not appropriate for the United States to provide additional public lands to the State of Alaska for an entitlement that has been fully satisfied.

Mr. Chairman, that concludes my prepared remarks. Thank you again for the opportunity to testify on S. 660. I am now prepared to respond to any questions you may have.



## MINORITY VIEWS OF SENATOR BUMPERS

S. 660 is an outrageous give away of public resources. This bill directs the Secretary of the Interior to convey up to 500,000 acres of federal land to the University of Alaska. Unlike almost all statutes disposing of federal land, S. 660 contains no provision that the lands conveyed to the University be vacant, unreserved, or unappropriated. And although the University could not choose lands from most areas specifically set aside for protection by Congress, the University could select lands in the national forests in Alaska, within the National Petroleum Reserve-Alaska, and federal lands on the Outer Continental Shelf. Depending upon which lands the University chose, the value of these lands could be very significant. In return, the University would transfer 11,852 acres to the federal government. It is quite obvious that the values of this exchange are not equal.

The underlying premise of this bill is faulty. The federal government has not failed to meet its obligations to provide an adequate land base to the University of Alaska as the bill's proponents suggest. The University of Alaska has received more than its fair share of federal lands and no inequity exists.

The sponsors of S. 660 contend that the University of Alaska received the smallest amount of federal land of any state that has a land grant college, with the exception of Delaware. It is important to note, however, that the amount of land awarded each state pursuant to the Morrill Act (12 Stat. 503), the law that established a system of land grant colleges and universities, was based on each state's population, not its size (30,000 acres per Senator and Representative). Had Alaska been a state in 1862 when the Morrill Act was enacted, it would have received a total of 90,000 acres, which is less land than the state has actually received from the federal government under a variety of statutes.

As discussed below, over the past several years the University has received 186,850 acres of land from the federal government. The Act of March 4, 1915, set aside each surveyed section 33 in the Tanana Valley for the support of a Territorial agricultural college in Alaska. Twenty-six of those sections were surveyed and 11,851 acres were ultimately transferred to the Territory to benefit an agricultural college and school of mines.

On January 21, 1929, Congress granted an additional 100,000 acres to the Territory of Alaska on behalf of the University of Alaska. This Act authorized the Territory to select vacant, unappropriated, and unreserved land anywhere within its boundaries. To date, 99,417 acres have been transferred pursuant to this Act.

The Act of March 4, 1915 was repealed by the Alaska Statehood Act in 1959. In 1980, the State of Alaska and the federal government disagreed as to which land grant sections vested in the State at the time of statehood and which sections were revoked by the

Statehood Act. In order to resolve this disagreement, section 906(b) of the Alaska National Interest Lands Conservation Act granted the state 75,000 acres of land for a variety of school purposes, and stated that this amount constituted full and final settlement of any and all claims with respect to the Act of March 4, 1915.

Finally, in the Alaska Statehood Act, the federal government provided the state a general purpose land grant of 102.5 million acres (more than four times the amount of any other state). The state could decide on its own what portion of these lands would be used for the benefit of the university system or for other purposes. Section 6(l) of the Alaska Statehood Act prohibited Alaska from receiving any additional lands pursuant to the Morrill Act.

In addition to the land based provisions, S. 660 specifically waives any compliance with the National Environmental Policy Act. This is an extraordinary waiver given the amount of land involved and the potential impacts on federal lands associated with the University's selections. Moreover, the bill waives judicial review for all parties or entities other than the University of Alaska, thus preventing any party from going to court to challenge the land conveyances to the University except for the University itself!

This bill would set a terrible precedent and I hope that it will be rejected by the full Senate if it is considered on the floor.

DALE BUMPERS.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 660, as ordered reported.

